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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Seferinus Jelle Asma

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EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/511,580	Applicant(s) ASMA, SEFERINUS JELLE	
	Examiner Thanh K. Truong	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 61-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-18-04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election **without** traverse of Group I, claims 61-90 in the reply filed on October 6, 2006 is acknowledged.
2. Claims 91-120 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 6, 2006.
3. Applicant's cancellation of claims 1-60 and 91-120 is acknowledged.

### *Drawings*

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

"first pair of transfer disks 30a, 30b" page 16, lines 27-28; and

"discharge chute 200" page 18, lines 9-10.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

Art Unit: 3721

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

It is suggested that the Applicant reviews the entire disclosure and corrects any similar informality.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 61-90 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 61, line 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 71, line 3, the term "preferably" renders the claim indefinite, because it is unclear what is the claimed limitation.

Regarding claim 75, line 3, the phrase "kind of diaphragm" renders the claim indefinite because it is unclear what is the claimed limitation – is it a diaphragm or it is not a diaphragm.

Regarding claim 75, line 9, the phrase "preferably copper strips" renders the claim indefinite, because it is unclear what are the material being included or not

Art Unit: 3721

included in the claimed limitation. Is copper the only material being claimed as the claimed limitation or others material being claimed as well.

Similarly, claims 80 and 81 are indefinite for the same reason – the phrase that has the word “preferably” render the claims indefinite.

Regarding claim 82, the phrase “one of the shafts being driven” is vague and indefinite, because it is unclear what is the Applicant referring.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 61-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Harnandes Vidal (EP 1041005).

Harnandes Vidal discloses an apparatus comprising: a first supply means (figure 1 - the products (8) are supplied to the drum) for supplying the products (8), second means (figure 3 – web (9) are supplied to the apparatus) for supplying a web (9) of wrapping material, means (2.5.1) for cutting a wrap from the web, a wrapping station having a driven series of means (1.1) for retaining the products and circulating in a first direction about a horizontal shaft (figure 1), and a drum driven in the same direction having means for enveloping the product heads with a wrap and means (4) for securing the wrap on the products (figure 5), the wrapping station comprising a supply station

Art Unit: 3721

and a discharge station (6.1), the second supply means being positioned for supplying the web of wrapping material according to a path that is tangential to the drum, in a direction running along with the drum rotation (column 2, lines 21-24).

Regarding claim 62, the second supply means being positioned for substantially vertical supply (figure 3).

Regarding claim 63, the retaining means and the drum being driven for carrying out a substantially downward motion at the location of the supply station (figure 1).

Regarding claim 64, wherein the second supply means are adapted for continuous supply of the web of wrapping material to the supply station (figure 3).

Regarding claim 65, wherein the second supply means are adapted for supply of the web of wrapping material to the supply station with the web in a plane which is perpendicular to the horizontal shaft (figures 3 & 7).

Regarding claim 66, a discharge station for discharge of the packaged products from the retaining means, the discharge station being placed at the location of the upper side of the drum (figures 1 & 6).

Regarding claim 67, the second supply means being adapted for continuous supply of the web of wrapping material (figure 3).

Regarding claim 68, the second supply means and the means for driving the drum being adjustable to each other for causing the web speed of the web of wrapping material to be equal to the circumferential speed of the drum at the location of the retaining means (column 3, lines 5-10).

Regarding claim 69, the second supply means comprising a pair of drive rollers (2.2) and a servo motor (2.1, 2.4) for the driving thereof (figures 3).

Regarding claim 70, means (2.3) for detecting markings on the web of wrapping material, a photocell, means for measuring the web speed, as well as with means for determining the actual distance between the marking based on the data of the detection means and the measuring means and means for adjusting the drive of the web of wrapping material to the determined actual distance between the markings (figure 3 – column 5, lines 42-58 and column 6, lines 1-2).

Regarding claim 71, the cutting means being positioned stationary, but adjustable in the transport direction of the web (figure 3 – column 5, lines 42-58 and column 6, lines 1-2).

Regarding claim 72, the drive of the cutting means being synchronisedly coupled to the drive means for the drum, so that the cutting means run in register with the retaining means etc. on the drum (figure 3 – column 5, lines 42-58 and column 6, lines 1-2).

Regarding claim 73, an encoder being provided on the cutting means or on the drive means for the drum, and the encoder being coupled to a control unit for mutual adjustment to the control of the driving of the web of wrapping material (column 4, lines 16-22).

Regarding claim 74, the drum being provided with means (4.4) for gripping the product head after the product head has been enveloped with a wrap, and with means

Art Unit: 3721

for rotating the head gripping means during securing the wrap on the product by the securing means, which gripping means have two pairs of opposite arms (figure 5).

9. **Examiner's note:** the term adapted for is being construed as a functional language, and it is further construed that the apparatus of Harnandes Vidal is fully capable of doing what is recited after the term adapted to - It has been interpreted that the recitation that an element is "adapted for" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

#### ***Allowable Subject Matter***

10. Claims 75-90 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

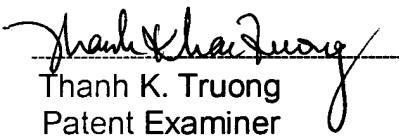
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.



Art Unit: 3721

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Thanh K. Truong  
Patent Examiner  
December 24, 2006.